

MUNGER, TOLLES & OLSON LLP  
355 S. Grand Avenue, 35th Floor  
Los Angeles, CA 90071-3560  
Tel: (213) 683-9100 – Fax: (213) 687-3702  
Ronald L. Olson (pro hac pending)  
Email: ron.olson@mto.com  
Cary B. Lerman (pro hac pending)  
Email: cary.lerman@mto.com  
Carl H. Moor (pro hac pending)  
Email: carl.moor@mto.com

**Hearing Date: March 30, 2011 at 10:00 a.m.**  
**Objection Deadline: March 16, 2011**

*Attorneys for Jeanne Levy-Church and  
Francis N. Levy*

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

SECURITY INVESTOR PROTECTION  
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

In re

BERNARD L. MADOFF,

Debtor.

Adv. Pro. No. 08-01789 (BRL)

SIPA Liquidation

(Substantively Consolidated)

**LEVYS' OPPOSITION TO MOTION TO SET ASIDE SETTLEMENT**

Jeanne Levy-Church and Francis N. Levy (the "Levys") oppose the *Customers' Motion to Set Aside the Order Approving the Trustee's Settlement with the Levy Heirs* [Docket No. 3860] (the "Peshkin Motion"), which seeks to vacate this Court's order [Docket No. 1964] approving a settlement agreement by and among the Levys and Irving H. Picard (the "Trustee"), as trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment

Securities LLC and Bernard L. Madoff.

The Court should deny the Peshkin Motion. A trustee's court-approved settlement must have finality, and settling parties must be assured that settled claims will not be relitigated. *In re Medomak Canning*, 922 F.2d 895, 901 (1st Cir. 1990); *accord, e.g., In re Shop N' Go P'ship*, 261 B.R. 810, 817 (Bankr. M.D. Pa. 2001) ("Expectation of the parties that entered into the settlement agreement should be upheld."). The Peshkin Motion seeks to vacate a year-old settlement that was entered into in good faith and at arms length between the Levys and the Trustee, which the Trustee continues to support to this day. The Peshkin Motion does not rely on any facts that were not available to and considered by the Trustee at the time of settlement. The Levys and their families have rightfully relied upon this settlement in moving forward with their lives, and it should not be disturbed. *See, e.g., Kotlicky v. U.S. Fidelity & Guar. Co.*, 817 F.2d 6, 9 (2d Cir. 1987) (federal policy strongly favors finality of judgments).

DATED: March 15, 2011  
Los Angeles, California

Respectfully submitted,

MUNGER, TOLLES & OLSON LLP

By: 

Cary B. Lerman

355 South Grand Avenue, Suite 3500  
Los Angeles, CA 90071-1560  
Tel: (213) 683-9128 – Fax: (213) 683-5128  
Email: cary.lerman@mto.com

*Attorneys for Jeanne Levy-Church and  
Francis N. Levy*